

UMATILLA INDIAN RESERVATION LAND CONSOLIDA-
TION, DEVELOPMENT, AND INHERITANCE OF TRUST

7-1406

HEARING

BEFORE THE

UNITED STATES SENATE

SELECT COMMITTEE ON INDIAN AFFAIRS

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

S. 470

PERTAINING TO LAND CONSOLIDATION AND DEVELOPMENT
ON THE UMATILLA INDIAN RESERVATION

S. 471

PERTAINING TO THE INHERITANCE OF TRUST OR RESTRICTED
LANDS ON THE UMATILLA INDIAN RESERVATION

JULY 5, 1977



Printed for the use of the
U.S. Senate Select Committee on Indian Affairs

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1977

96-304 O

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[Created by S. Res. 4, 95th Cong.]

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(III)

have time for questions and can accommodate all those who wish to testify in the limited time we have. Of course, the full prepared statement will be incorporated into the record.

Our first witness this afternoon will be Mr. Vincent Little for the Portland regional office of the Bureau of Indian Affairs, and any that wish to accompany him from that office.

Gentlemen, I assume that the speaker should use the podium here, the others may use the seats here, until it is the individual's turn to speak.

**STATEMENT OF VINCENT LITTLE, AREA DIRECTOR, PORTLAND
AREA OFFICE, BUREAU OF INDIAN AFFAIRS**

Mr. LITTLE. Thank you, Mr. Chairman.

I am pleased to testify in favor of the enactment of Senate bill 470 and Senate bill 471, with some minor amendments as suggested in our prepared statement which was previously handed to you.

Senator HATFIELD. Your prepared statement will be made a part of the record.

Mr. LITTLE. Thank you.

[The prepared statement of Vincent Little follows:]

STATEMENT OF MR. VINCENT LITTLE, AREA DIRECTOR, PORTLAND AREA OFFICE, BUREAU OF INDIAN AFFAIRS, BEFORE THE HONORABLE MARK O. HATFIELD, MEMBER OF THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS ON S. 470, A BILL PERTAINING TO LAND CONSOLIDATION AND DEVELOPMENT OF THE UMATILLA INDIAN RESERVATION, AND S. 471, A BILL PERTAINING TO THE INHERITANCE OF TRUST OR RESTRICTED LANDS ON THE UMATILLA INDIAN RESERVATION.

Mr. Chairman and Members of the Committee:

I am pleased to testify in favor of the enactment of S. 470 and S. 471, with some minor amendments.

The Act of August 10, 1939 (c. 662, SS2,3, and 4, 53 Stat. 1351; 25 U.S.C. 463e, f, and g), authorized the Secretary of the Interior to restore the undisposed of surplus lands of the Umatilla Indian Reservation, Oregon, to the ownership of the Confederated Tribes of the Umatilla Indian Reservation. Until then, such lands had been open to entry or other forms of disposal under the public-land laws.

To effect land consolidations within the Reservation, the Secretary was authorized to acquire any interest in lands, water rights, or surface rights to lands within the Reservation by purchase, exchange or relinquishment. The 1939 Act also provided that title to the acquired lands would be taken in trust for the benefit of the Tribes or any individual member, and that any funds appropriated pursuant to section 5 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), may be used to effect the land provisions of that Act. However, the land consolidation authorities contained in the IRA are not applicable to the Confederated Tribes because the members of the Tribes voted against its application.

S. 470 would amend the 1939 Act, and would provide the Umatilla Indians

an opportunity to re-establish a viable land base through land consolidation and purchase of lands presently owned by non-members of the Confederated Tribes. As of the present approximately 55% of the land in the current Umatilla Indian Reservation are owned by non-Indians.

Under S. 470 the Secretary's authority is expanded to enable him to acquire lands not only within the exterior boundaries of the reservation, but, also, those that are adjacent to or in close proximity to the boundaries of the Umatilla Indian Reservation--without taking those lands outside the reservation off the county tax rolls. The Secretary is further authorized to approve the sale of tribal lands that are unproductive or which cannot be properly utilized because of location or other reasons. Those lands within the reservation that are acquired under the provisions of the bill will be taken into trust for the benefit of the tribe or the individual tribal member.

Further, S. 470 would authorize the Secretary to acquire lands or interests in lands for the Umatilla Tribe with funds made available by the tribe or pursuant to appropriations made under section 5 of the Indian Reorganization Act. Section 5 of the IRA, which is the same as section 4 of the 1939 Act pertaining to the Umatillas, authorizes the Secretary to acquire lands for Indians whether within or without existing reservation boundaries through purchase, exchange, relinquishment, gift, or assignment, and also authorizes the appropriation of \$2 million annually for such land acquisitions. However, no funds have been appropriated pursuant to section 5 since 1953. Recent

appropriations for the Bureau of Indian Affairs have prohibited the use of tribal funds in certain States, including Oregon, for acquisition of tribal lands. Although this prohibition is no longer contained in current appropriations, S. 470 would render such a prohibition non-applicable to the Umatilla Indians.

The bill would require that any land consolidation thereunder must be pursuant to resolutions duly adopted by the Board of Trustees of the Confederated Tribes, and only in accordance with a land consolidation and development plan approved by the Secretary. Any moneys received by the Umatilla Indians from the sale or exchange of lands shall be used consistently with the plan.

The Secretary may sell or exchange individual Indian trust lands or trust interests in lands held in multiple ownership on the reservation to the tribe or to an enrolled tribal member having an interest in the land involved, providing that the sale or exchange has the written authorization of at least a majority of the owners of the trust interest in the lands. This consolidation of fractionated interests will facilitate the tribe's land consolidation and development program.

The tribe may, with the approval of the Secretary, execute a mortgage or deed of trust on such lands as are being acquired under this legislation. The Act of March 29, 1956 (70 Stat. 62, 25 U.S.C. 463a) only provides this authority for individual trust or restricted lands.

Mr. LITTLE. The act of August 10, 1939, provided for the restoration of certain lands to the Confederated Tribes of the Umatilla Reservation. And the act also provided authority for the acquisition through purchase, exchange or relinquishment of any interest in lands within the reservation for the purpose of effecting land consolidation between the Indians and non-Indians.

S. 470 would revise the land consolidation provisions of the 1939 act and as so revised, the act would provide that any acquisitions, sale or exchange of lands by the Secretary of the Interior for the Confederated Tribes shall be in accordance with a land consolidation and development plan approved by the Secretary. The Secretary would be authorized to acquire lands for the tribes and for individual Indians with any funds, including funds furnished by them or by congressional appropriation.

Under S. 470, land acquired for individuals would have to be within the reservation. While land acquired for the tribes would have to be within, adjacent to, or in close proximity to the boundaries of the reservation.

All land acquired within the reservation would be taken in trust by the Secretary for the tribes for the individual involved, while land acquired outside of the reservation would be in the name of the tribe and would not be tax exempt or subject to any restriction by the United States on alienation or management, such as under the Non-intercourse Act.

This proposed bill is actually more restrictive than the Wheeler-Howard Act of 1934, which allows those tribes which adopted it to acquire lands in trust within or without reservation boundaries. Any funds or credits received by the tribes for the sale or exchange of lands are to be used for the purchase of other lands in accordance with their land consolidation and development plan.

Any transactions between non-Indian land owners and prospective Indian purchasers will be on a willing-seller, willing-buyer basis.

Section 7 of the 1939 act, as revised by S. 470, is aimed at alleviating the problems associated with fractionated heirships or multiple ownership of individual tracts of land within the reservation.

The Secretary would be authorized to sell or exchange individual Indian trust lands or trust interest in lands held in multiple ownership. Such sales or exchanges could be made to the tribes or to any enrolled Indian member of the tribes having an interest in the land involved. Any such land or exchange must be authorized in writing by the owners of at least a majority of the trust interest in such lands, unless the Congress enacts general legislation requiring a lesser percentage.

Section 8 of the revised 1939 act would authorize the tribes to mortgage land being acquired where necessary to secure the balance of the purchase price. Foreclosure and sale would be possible pursuant to Oregon State law, with the United States being an indispensable party to any such proceedings involving trust lands within the reservation.

We believe the enactment of S. 470 will aid the tribes in the more effective use and development of their lands and will aid in reducing the problems associated with the use of lands which have a number of owners of fractional interest.

Senate bill 471 would provide Federal statutory authority for the inheritance of trust or restricted lands on the Umatilla Indian Reser-

vation. It is intended to supersede Oregon State law which, since a 1969 amendment, has resulted in the reservation lands passing out of Indian ownership.

Prior to 1969, the law of descent and distribution in Oregon provided that real property would descend in equal shares to the children of the deceased, subject only to the surviving spouse's right to a lifetime interest in one-half of all real property owned by the deceased when he or she died.

In 1969, the Oregon law was amended to provide that a surviving spouse is to receive one-half of the net estate, including real property of a person dying without a will. Therefore, since 1969, any non-Indian spouse of a deceased member of the Umatilla Tribe is entitled to one-half interest in trust lands of the deceased.

S. 471 would essentially return to the pre-1969 situation insofar as trust or restricted land is concerned. Current Oregon law would apply to all other portions of the estates of deceased members of the tribes.

This concludes my formal statement.

Mr. Chairman, I have with me from my staff, Mr. Doyce L. Waldrip, Assistant Area Director for Economic Development, Mr. Richard Balsiger, Assistant Area Director for Community Services, and Mr. Wilford Bowker, Area Realty Officer, and we will be pleased to respond to any questions.

Senator HATFIELD. All right. Mr. Little, do any of the other gentlemen accompanying you wish to make a statement?

Mr. LITTLE. No, sir. This is our summary.

Senator HATFIELD. What is the present procedure for the acquisition, sale, and exchange of tribal trust lands?

Mr. LITTLE. Mr. Bowker, would you care to answer that one there in detail? That is your field.

STATEMENT OF WILFORD BOWKER, AREA REALTY OFFICER, PORTLAND AREA OFFICE, BUREAU OF INDIAN AFFAIRS

Mr. BOWKER. Mr. Chairman, my name is Wilford Bowker. I am the Area Realty Officer. I would like to ask for one clarification.

What is meant by procedure, now?

Senator HATFIELD. What I am trying to get at is what system you follow now in the acquisition of such land and the followup question is going to be: How would Senate bill 470 in any way impact a change—affect that decision?

Mr. BOWKER. We have a procedure which has many steps to follow in sale or acquisition of land for Indians. As far as the Umatilla Tribe is concerned, their only authority to acquire land is the 1939 act, and the act itself is for purchase, exchange, or relinquishment, and that is all.

Senator HATFIELD. Is there any impact that you see that would change that traditional procedure by Senate bill 470?

Mr. BOWKER. Senate bill 470 would authorize the sale of tribal lands, to enhance them, to consolidate an area that would be a more economic unit for them to work with.

Senator HATFIELD. In any land consolidation plan, it would have to be approved by the Secretary?

Mr. BOWKER. Yes, sir.

Senator HATFIELD. Senate bill 470?

Mr. BOWKER. Yes, sir.

Senator HATFIELD. Which is not now the case?

Mr. BOWKER. No.

Senator HATFIELD. And, further, Senate bill 470 does make very clear that any land purchased outside the boundaries would be subject to taxation.

Mr. BOWKER. That is correct.

Senator HATFIELD. By the authorities of Umatilla County, or of the State, or whatever districts may be empowered to impose such a tax.

Mr. BOWKER. That is right.

Senator HATFIELD. In other words, if anything, Senate bill 470 puts more definitive parameters on the whole matter of land consolidation as it exists today under the present statute. Would you agree with that observation?

Mr. BOWKER. Yes; I do.

Senator HATFIELD. Are there any authorities today that provide the tribe with the ability to impose a mortgage on their lands?

Mr. BOWKER. The Umatilla Tribe?

Senator HATFIELD. Yes, Umatilla.

Mr. BOWKER. No; there isn't.

Senator HATFIELD. So this bill would further be different in that situation. Now, are there other tribes that you are aware of that have been granted this authority to put a mortgage on trust lands?

Mr. BOWKER. Yes; in the Portland area we have three other tribes that have special legislation that enabled them to do the very thing that this proposed legislation would enable the tribe to accomplish.

And those three tribes are the Swinomish Tribe, Spokane Tribe, and the Tulalip Tribe; which are all in the State of Washington.

Senator HATFIELD. Could you make any observation or analysis on the consolidation land program, similar to the one proposed in 470, such as, perhaps, the Warm Springs?

Mr. BOWKER. The Warm Springs has the land consolidation program. However, they do fall under the Wheeler-Howard Act of 1934. But they did have limitations on expending tribal funds by the Appropriations Act; until that was removed very recently. So they went to Congress and had an act passed in the mid-sixties, that authorized them to expend tribal funds even though this appropriation limitation was there. The appropriations limitation kept the Umatilla Tribes from exercising whatever authority they had in the 1939 act, as far as purchasing land.

Senator HATFIELD. All right. Thank you very much. Mr. Little, I appreciate your presence here today. I hope you will be able to stand by in case other questions arise. These will be referred to you later. I would like now to invite the County Commissioners from Umatilla County to come forward. Commissioners Ford Robertson and Woody Starrett.

STATEMENT OF F. K. (WOODY) STARRETT, CHAIRMAN, UMATILLA COUNTY BOARD OF COMMISSIONERS

Mr. STARRETT. Senator Hatfield, it is a pleasure to be here. I am addressing only Senate bill 470.

Senator HATFIELD. All right.

Mr. STARRETT. I am F. K. Starrett, Chairman of the Umatilla County Board of Commissioners. It is my pleasure to testify before you as concerns the lands on the Umatilla Indian Reservation. My testimony will, in the main part, address the tax lands on the reservation and the division of the different taxing districts.

The maps that I have here denote the lands that are assessable and those that are tribal lands and not assessable. Those colored yellow are the lands on the reservation on which there are no taxes. I will show you those * * * and the assessor will have my hide if I don't get those back to him but I will get you some copies if you need them.

The other lists I have, which are these tax lists I believe you have, were prepared by the tax assessor and reflect the various dollar amounts of the various districts. As an example, school district 16R gets nearly \$300,000 of tax revenues from land valued at \$21 million.

This checkerboard of taxable lands, you might have noticed the map, the yellow being nontaxable, totals \$29 million in appraised values. County, city, and other tax districts depend on property tax to provide the bulk of their expenditures for mandated services. Oregon does not have a sales tax or other taxes to provide for port, college, cemetery, fire, or other districts. Property tax is vital to providing money for local governments and services.

The quality of life in Umatilla County is a concern of the governing bodies. We would opt that taxes be applied equally and the benefits returned fairly to every citizen. As we consider the possibility of less and less area being taxed without reducing the needs on the outside, or an outside replacement of the tax dollars, we can expect the lands outside the reservation would carry higher and higher taxes and lower economic return.

This shadow of this shifting land, tax load, uprooting third and fourth generation family farms, and other social economic trending has provoked alarm. All those living on reservation lands have a heritage, no matter what their nationality and are looking to the Government for fair and equitable treatment. In short, I am suggesting there is a delicate balance in social as well as economic values on reservation lands. These lands are in the heart of Umatilla County and what affects them affects all the county.

In summary, these exhibits are rough figures of the tax load that presently exists and the maps reflect the entanglement of the districts and the ownership. I hope that I have made the point, that decisions inside the tribal boundaries can have profound effects, inside and out, and affect the entire county. The final point was that economics and the social well-being of Umatilla County residents are as interwoven emotionally as are the lands physically attached. It would take a very delicate surgery to complete such an operation.

I appreciate your time. If you have questions, I will try to respond.

Senator HATFIELD. Thank you.

Your prepared statement will be entered in the record.

Mr. STARRETT. Thank you.

[The prepared statement of Mr. Starrett follows.]

Senator HATFIELD. It is not exclusive but concurrent with the county? Is that right?

Mr. MINTHORN. Both parties must agree to any requests.

Senator HATFIELD. In other words, you just cannot unilaterally zone.

Mr. MINTHORN. No; we cannot.

Senator HATFIELD. Does the tribe have any plans, preliminary or otherwise, for the development of an irrigation project on the Umatilla River?

Mr. MINTHORN. No; we do not.

Senator HATFIELD. Does the tribe anticipate or have you thought about the possibilities of developing such a project?

Mr. MINTHORN. No; we haven't.

Senator HATFIELD. Does the tribe contemplate an exercise of the right of eminent domain in effecting the land consolidation proposal in Senate bill 470?

Mr. MINTHORN. No. We explained that, I think, I don't know how many times; Mr. Nash has explained it. No.

Senator HATFIELD. Then, of course, as I indicated earlier, we grant no condemnation power within the bill either. It has been said, Mr. Minthorn, by some that they have a fear that possibly the tribe might use the consolidation plan as proposed in Senate bill 470, through harassment or otherwise, to drive non-Indian landowners off the reservation. How do you respond to that concern?

Mr. MINTHORN. We have heard that concern throughout the process and there is no truth to it and I think those are pretty damaging statements as far as the relationship between the people that live on the reservation and the Indian people.

There never has been any discussion concerning driving people from the reservation, there is no authority in the bill. There never has been. It never has been discussed, as far as I am concerned, the board of trustees of the governing body.

The people that are making these comments, I think, are making very damaging statements that are affecting the relationship between those people who live on the reservation and our neighbors, and there is no truth to it, whatsoever.

Senator HATFIELD. What kind of authority would you have under that type of plan, if that plan existed? I see nothing in the bill that would grant you authority—

Mr. MINTHORN. There is no authority.

Senator HATFIELD. What other power would you have to exercise, if this were the situation? Do you have other powers, under other laws or treaties, that would give you this ability?

Mr. MINTHORN. To remove people from the reservation?

Senator HATFIELD. Other than on a voluntary basis.

Mr. MINTHORN. No. Again; no.

Senator HATFIELD. All right I would like to thank you very much. Mr. Minthorn.

Mr. Nash, do you have anything further to say?

Mr. NASH. No, sir, we don't.

Senator HATFIELD. Thank you very much. Mr. Minthorn, your prepared statement will be placed in the record at this point.

Mr. NASH. Thank you, sir.

[The prepared statement of Mr. Minthorn follows:]

STATEMENT OF

MR. LESLIE MINTHORN, CHAIRMAN

BOARD OF TRUSTEES

CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION

BEFORE THE

INDIAN AFFAIRS SUBCOMMITTEE

UNITED STATES HOUSE OF REPRESENTATIVES

Mr. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM LESLIE MINTHORN, CHAIRMAN OF THE BOARD OF TRUSTEES OF THE CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION. THE BILLS THAT WE ARE HERE TO DISCUSS TODAY AND INDEED, THIS HEARING, ARE MILESTONES IN THE HISTORY AND DEVELOPMENT OF OUR TRIBE.

WE HAVE WORKED HARD IN RECENT YEARS TO DEVELOP PROGRAMS THAT ARE BENEFICIAL TO OUR TRIBE AND TO BUILD A STRONG AND CAPABLE TRIBAL GOVERNMENT. WE FEEL THAT OUR MEMBERSHIP IS ENTITLED TO A TRIBAL GOVERNMENT THAT CAN SERVE AND PROTECT THEIR INTERESTS. WE ARE PROUD OF WHAT WE HAVE ACCOMPLISHED ON OUR RESERVATION. HOWEVER, AS IN ALL MAJOR ENDEAVORS, PROGRESS CAN ONLY BE MADE TO A CERTAIN POINT BEFORE OBSTACLES ARE ENCOUNTERED THAT WOULD BE INSURMOUNTABLE WITHOUT ADDITIONAL ASSISTANCE.

WE HAVE FOUND OURSELVES AT THAT POINT RECENTLY. WE HAVE ENCOUNTERED TWO DISTINCT PROBLEMS THAT IMPEDE OUR FURTHER DEVELOPMENT AND IT IS WITHIN THE POWER AND AUTHORITY OF CONGRESS TO REMEDY THESE PROBLEMS. THUS, THROUGH THESE TWO PIECES OF LEGISLATION, WE ARE ASKING YOUR ASSISTANCE IN RESOLVING MATTERS RELATING

TO THE INHERITANCE OF TRUST ALLOTMENTS AND LAND CONSOLIDATION ON THE UMATILLA INDIAN RESERVATION. I WOULD LIKE TO DISCUSS EACH OF THE TWO MATTERS SEPARATELY.

HOWEVER, BEFORE DEALING WITH THE SPECIFIC BILLS, I WOULD LIKE TO PROVIDE YOU WITH SOME BACKGROUND ON BOTH OUR RESERVATION AND TRIBAL GOVERNMENT SINCE BOTH WILL BE AFFECTED BY THE PASSAGE OF THESE MEASURES.

THE UMATILLA INDIAN RESERVATION IS SITUATED IN NORTHEASTERN OREGON AND IS PRIMARILY WITHIN UMATILLA COUNTY, THERE BEING APPROXIMATELY 1000 ACRES SITUATED IN UNION COUNTY. THE RESERVATION WAS CREATED BY THE TREATY OF JUNE 9, 1855, 12 STAT. 941. AS CREATED, IT ENCOMPASSED APPROXIMATELY 245,799 ACRES, ALL OF IT HELD PURSUANT TO THE TRIBE'S ABORIGINAL TITLE.

THE RESERVATION CONTAINS A GREAT DIVERSITY OF CLIMATES AND LAND. THE NORTHERN PORTION IS CHARACTERIZED BY FLAT, FERTILE SOILS THAT ARE VALUABLE FOR DRY LAND FARMING. THE UMATILLA RIVER BISECTS THE RESERVATION FROM EAST TO WEST AND CONNECTS WITH SEVERAL TRIBUTARIES WITHIN THE BOUNDARIES. TO THE SOUTH, ONE ENCOUNTERS HILLSIDES SUITABLE FOR GRAZING PURPOSES, AND ULTIMATELY, IN THE BLUE MOUNTAINS, TIMBERED COUNTRY.

BY THE ACT OF MARCH 3, 1885, 23 STAT. 340, CONGRESS PROVIDED FOR THE ALLOTMENT OF THE RESERVATION. UNDER THIS ACT, ALL TRIBAL MEMBERS ALIVE AT THAT TIME WERE GIVEN A PARCEL OF LAND TO FURTHER THE GOVERNMENT'S GOAL OF "CIVILIZATION" BY ENCOURAGING FARMING AS AN OCCUPATION. OF COURSE, MANY INDIANS AT THAT TIME WERE NOT

DISPOSED TO BE FARMERS AND SOME OF THE ALLOTMENTS WERE SOLD. ONE TRACT OF LAND WAS SET ASIDE AS A FARM SCHOOL. SOME WAS RESERVED FOR THE TRIBE AND THE REMAINDER WAS TO BE SOLD TO NON-INDIANS. THE ALLOTMENT PROCESS AND SUBSEQUENT OPENING OF THE RESERVATION TO NON-INDIAN SETTLEMENT WAS BROUGHT ABOUT BY PRESSURE FROM NON-INDIANS IN THE AREA WHO COMPLAINED THAT RESERVATION LAND WAS "LYING WASTE" AND THAT IT WOULD SUPPORT SOME 1500 FARMING FAMILIES. McNAB, A CENTURY OF NEWS AND PEOPLE IN THE EAST OREGONIAN, PP. 77-80 (1975). APPROXIMATELY 74,000 ACRES WERE THUS SOLD. THE ACT OF AUGUST 10, 1939, 53 STAT. 1351 RESTORED "TO TRIBAL OWNERSHIP THE UNDISPOSED OF SURPLUS LANDS OF THE UMATILLA INDIAN RESERVATION, OREGON, HERETOFORE OPENED TO ENTRY OR OTHER FORM OF DISPOSAL UNDER THE PUBLIC LAND LAWS...".

AS MENTIONED EARLIER, THE RESERVATION ENCOMPASSED 245,799 ACRES WHEN CREATED. OF THAT TOTAL TODAY, 16,168 ACRES ARE TRIBAL TRUST LAND AND THE TRIBE OWNS 22 ACRES IN FEE SIMPLE. TRUST ALLOTMENTS TOTAL 68,434 ACRES AND 830 ACRES ARE OWNED BY TRIBAL MEMBERS IN FEE SIMPLE. THE REMAINDER IS DEEDED LAND OWNED BY OTHER THAN INDIVIDUAL INDIANS OR THE TRIBE.

FROM 1855 TO THE PRESENT WE HAVE SUFFERED SIGNIFICANT LOSSES OF OUR LAND BASE. FROM THE RESERVATION THAT WAS SET ASIDE FOR THE TRIBE AND TRIBAL PURPOSES IN 1855, THAT SAME TRIBE IS LEFT TODAY WITH THE "REMAINS" OF THE ALLOTMENT AND SETTLEMENT PROCESS. ONE OF THE BILLS TO BE DISCUSSED TODAY PROVIDES A METHOD BY WHICH WE COULD REACQUIRE SOME OF THE LANDS THAT HAVE BEEN LOST

AND BETTER MANAGE THAT WHICH WE HAVE.

A TRIBAL GOVERNMENT PLAYS A KEY ROLE IN THE ADMINISTRATION AND DEVELOPMENT OF LAND RESOURCES ON ANY RESERVATION. I AM PROUD TO SAY THAT OURS IS A VERY ACTIVE AND PROGRESSIVE TRIBAL GOVERNMENT THAT HAS DEVELOPED RAPIDLY IN THE PAST FEW YEARS. I WOULD LIKE TO REVIEW FOR YOU THE STRUCTURE AND SCOPE OF OUR TRIBAL GOVERNMENT.

WE HAVE A GOVERNING BODY WHICH CONSISTS OF NINE MEMBERS, KNOWN AS THE BOARD OF TRUSTEES WHICH IS ELECTED BY THE GENERAL COUNCIL WHICH CONSISTS OF ALL TRIBAL MEMBERS OF LEGAL VOTING AGE. OUR CONSTITUTION AND BY-LAWS WERE ADOPTED IN 1949. ONE AMENDMENT TO THE CONSTITUTION WAS APPROVED IN NOVEMBER OF 1976.

AT THE PRESENT TIME, WE HAVE SOME 24 COMMITTEES, TRIBAL DEPARTMENTS AND ENTERPRISES. AMONG THESE ARE COMMITTEES THAT ARE RESPONSIBLE FOR A SPECIFIC SUBJECT AND REPORT TO THE BOARD OF TRUSTEES ON RELEVANT MATTERS. THEY INCLUDE ENROLLMENT, BUILDING, PLANNING, JOHNSON O'MALLEY, CHILD CARE, FISH, CREDIT, SENIOR CITIZENS, CELEBRATION, LAW AND ORDER, HEALTH, EDUCATION AND HOUSING COMMITTEES. THERE ARE ENTERPRISES WHOSE FUNCTION IS TO ENGAGE IN PROFIT MAKING ACTIVITIES FOR THE TRIBE. THEY INCLUDE FARM, FOREST AND RANGE, CONSTRUCTION AND COMMERCIAL ENTERPRISES.

A SOURCE OF PARTICULAR PRIDE IS THE MISSION MARKET, A GROCERY STORE WITH AN ARTS AND CRAFTS SHOP, GAS SALES AND A LAUNDROMAT THAT WAS RECENTLY OPENED ON THE RESERVATION AND IS OPERATED BY THE COMMERCIAL ENTERPRISE COMMITTEE.

OUR HOUSING AUTHORITY HAS CONSTRUCTED AND NOW MANAGES 40 HOUSING UNITS. FIFTY MORE ARE TO BE CONSTRUCTED IN THE NEAR FUTURE.

COMMUNITY HEALTH PROGRAMS INCLUDE COMMUNITY HEALTH REPRESENTATIVES, ALCOHOL AND DRUG PROGRAM, ZONING OFFICE, ADULT BASIC EDUCATION PROGRAM AND NEEDS ASSESSMENT. THESE PROGRAMS HAVE BEEN DEVELOPED TO MEET THE NEEDS OF OUR PEOPLE OR TO PROVIDE WISE MANAGEMENT AND PROTECTION OF OUR TRIBAL INTERESTS.

IT IS THROUGH THE OPERATION OF THIS TRIBAL GOVERNMENT STRUCTURE THAT WE HAVE FOUND THE PROBLEMS THESE BILLS ARE DESIGNED TO CORRECT.

UMATILLA INHERITANCE BILL

THE BILL THAT HAS BEEN INTRODUCED AS S. 471 IN THE SENATE AND H.R. 2540 IN THIS HOUSE OF REPRESENTATIVES IS THE UMATILLA INHERITANCE BILL. THIS BILL REPRESENTS OUR EFFORT TO HAVE TRUST ALLOTMENTS THAT ARE NOT SUBJECT TO THE PROVISIONS OF A VALID WILL PASS BY INTESTATE SUCCESSION IN A MANNER ACCEPTABLE TO THE TRIBE.

AS YOU ARE AWARE, THE DESCENT AND DISTRIBUTION OF INDIAN TRUST ALLOTMENTS IS SUBJECT TO FEDERAL LAW. THAT LAW PROVIDES THAT THE DESCENT AND DISTRIBUTION OF SUCH PROPERTY SHALL BE IN ACCORDANCE WITH THE LAWS OF THE STATE WHEREIN IT IS LOCATED. IN 25 USC 348, IT IS PROVIDED IN PART, "...THAT THE LAW OF DESCENT AND PARTITION IN FORCE IN THE STATE OR TERRITORY WHERE SUCH LANDS ARE SITUATE SHALL APPLY THERETO AFTER PATENTS THEREFORE HAVE BEEN

TRIBAL MEMBERS AND WILL GO FAR TO MINIMIZE THE FRACTIONALIZED OWNERSHIP OF LAND AND TO MAINTAIN A BASE OF LAND IN TRUST AND RESTRICTED STATUS ON THE UMATILLA INDIAN RESERVATION.

LAND CONSOLIDATION BILL

IT HAS BEEN SAID MANY TIMES BEFORE THAT ONE OF THE MOST IMPORTANT THINGS TO THE INTEGRITY AND ECONOMY OF A TRIBAL GOVERNMENT IS A SIZEABLE AND STABLE LAND BASE. I WOULD LIKE TO REAFFIRM THAT PREMISE HERE AND EMPHASIZE THAT THIS IS ESPECIALLY TRUE WHERE, AS IN NORTHEASTERN OREGON, THE ECONOMY OF THE WHOLE AREA IS BASED UPON AGRICULTURE. AS I RELATED EARLIER, VAST AMOUNTS OF TRIBAL LAND ON OUR RESERVATION WERE LOST DUE TO THE ALLOTMENT PROCESS, AND THE OPENING OF THE RESERVATION TO SETTLEMENT BY NON-INDIANS. THAT WHICH REMAINS IN TRIBAL HANDS REPRESENTS A MAJOR FACTOR IN TERMS OF TRIBAL INCOME AND DEVELOPMENT. FARM LANDS ARE CUSTOM FARMED AND PRODUCE TRIBAL INCOME. GRAZING LANDS ARE LEASED AND TIMBERED LAND IS UTILIZED THROUGH TIMBER SALES AND RECREATION. TRIBAL LAND IS ALSO USED FOR HOUSING PROJECTS AND FOR BUILDINGS HOUSING TRIBAL OFFICES AND INDIAN HEALTH SERVICE FACILITIES. THESE NEEDS ARE EXPANDING. THE ACQUISITION OF LAND MEANS ROOM FOR EXPANSION AND INCREASED TRIBAL INCOME WHICH COULD REDUCE THE CURRENT TRIBAL RELIANCE ON FEDERAL GRANTS AND CONTRACTS. THE CONSOLIDATION AND ACQUISITION OF LANDS UNDER TRIBAL OPERATION COULD IMPORTANTLY MEAN MORE JOBS AND A STIMULATED RESERVATION ECONOMY. WE WOULD LIKE TO BE ABLE TO SUPPORT MORE

OF OUR OWN PROGRAMS, BUT WE NEED THE MEANS TO PRODUCE OUR OWN INCOME.

UNFORTUNATELY, WE CANNOT REVERSE HISTORY. WE CANNOT NOW URGE CONGRESS NOT TO PASS THE ALLOTMENT ACT AND POINT OUT THE ADVERSE EFFECT THIS ACT WOULD HAVE ON OUR TRIBE. WE CANNOT NOW URGE THAT THE OPENING OF OUR RESERVATION IS INCONSISTENT WITH THE OBLIGATION OF THE FEDERAL GOVERNMENT TO PROTECT OUR INTERESTS. WE CANNOT NOW REFUTE THE URGINGS OF THE NON-INDIAN COMMUNITY THAT THE LAND ON OUR RESERVATION WAS "LYING WASTE" WHEN, IN FACT, IT WAS BEING "UTILIZED" TO THE HIGHEST DEGREE BY OUR ANCESTORS AS THEY HAD "UTILIZED" THAT LAND AND MORE, FOR CENTURIES BEFORE. WE CAN DEMONSTRATE FOR YOU THAT THE PROPOSED LAND CONSOLIDATION BILL WHICH HAS BEEN INTRODUCED AS S. 470 IN THE SENATE AND H.R. 2539 IN THIS HOUSE OF REPRESENTATIVES IS A METHOD BY WHICH WE CAN MAKE THE MOST OF WHAT WE HAVE TODAY.

OF THE LAND THAT IS PRESENTLY HELD BY THE TRIBE, MUCH IS IN THE FORM OF SMALL PARCELS SCATTERED THROUGHOUT THE RESERVATION. SUCH A SITUATION IS UNDESIRABLE FROM BOTH A MANAGERIAL AND ECONOMIC POINT OF VIEW. WE HAVE A FARMING ENTERPRISE THAT MANAGES OUR FARM LAND AND A FOREST/RANGE ENTERPRISE THAT MANAGES TIMBERED AND GRAZING LANDS. HOWEVER, WITH THE SMALL SCATTERED PARCELS, THE ONLY VIABLE METHOD OF UTILIZATION IS TO LEASE THEM TO OTHER AGRICULTURAL INTERESTS.

WE FACE A DESPERATE NEED TO CONSOLIDATE THESE PROPERTIES

INTO LARGE, USABLE TRACTS AND TO REACQUIRE SOME OF THE GOOD AGRICULTURAL LAND THAT HAS BEEN LOST TO TRIBAL OWNERSHIP. THE PROPOSED LAND CONSOLIDATION BILL IS THE VEHICLE BY WHICH THIS CAN BE ACCOMPLISHED.

THE CONCEPT OF THE UNITED STATES HOLDING PROPERTY IN TRUST FOR A TRIBE OR INDIVIDUAL IS A GOOD AND NECESSARY ONE. PROBLEMS ARE ENCOUNTERED, HOWEVER, WHEN ONE CONSIDERS THE SALE OR EXCHANGES OF SUCH PROPERTIES OR THE ACQUISITION OF DEEDED LANDS TO BE RETURNED TO TRUST STATUS. THE MOST OBVIOUS EXAMPLE IS WHERE THE TRIBE WISHES TO SELL A PIECE OF LAND THAT IS OF RELATIVELY LITTLE VALUE TO THE TRIBE DUE TO IT'S SMALL SIZE, REMOTE LOCATION OR TYPE OF LAND. PERMISSION MUST BE OBTAINED FROM THE LEGAL OWNER, THE UNITED STATES, AND THIS CAN BE A BURDENSOME PROCESS.

MORE COMMONLY, A NON-INDIAN OWNER OF LAND ON THE RESERVATION WISHES TO SELL HIS PROPERTY AND OFFERS IT FIRST TO THE TRIBE. BECAUSE THE UNITED STATES CAN ONLY TAKE LAND INTO TRUST THAT HAS A CLEAR TITLE, IT IS IMPOSSIBLE TO PURCHASE THAT LAND UNDER A NORMAL LAND SALE CONTRACT AND MORTGAGE AND HAVE IT IMMEDIATELY TAKEN INTO TRUST. WE ARE ALSO PRECLUDED FROM PLEDGING ANY OTHER TRIBAL TRUST LAND AS SECURITY FOR ANY LAND PURCHASE BECAUSE SUCH A PLEDGE WOULD BE AN ENCUMBRANCE UPON TRUST PROPERTY. EVEN IF THE TRIBE HAD THE FUNDS ON HAND TO PAY CASH FOR THE PROPERTY THAT BECOMES AVAILABLE, SUCH PAYMENT IS NOT ACCEPTABLE TO THE SELLER BECAUSE OF THE RESULTANT HIGH INCOME TAXES. IN MOST CASES, CASH PAYMENT IN FULL IS AN IMPOSSIBILITY SINCE THE TRACTS OFFERED

FOR SALE ARE LARGE AND COST PER ACRE IS HIGH.

A RECENT STUDY CONDUCTED BY OUR TRIBAL DEVELOPMENT OFFICE REFLECTS THAT FROM 1975 TO THE PRESENT, LANDS TOTALING 4,911 ACRES WERE OFFERED TO US. ALTHOUGH PRICES PER ACRE VARIED, THE TOTAL COST OF THESE LANDS WAS \$2,013,680.00. FOR THE REASONS JUST STATED, WE WERE UNABLE TO PURCHASE THESE LANDS.

WHEN LAND IS PURCHASED BY THE TRIBE, WE HAVE FOUND MANY TIMES THAT THE ABILITY TO HAVE THE LAND HELD IN TRUST MAKES THE DIFFERENCE BETWEEN ECONOMIC FEASIBILITY AND IMPOSSIBILITY. THIS IS ESPECIALLY TRUE OF GRAZING AND TIMBERED TRACTS WHERE THE POSSIBLE ANNUAL RETURNS WOULD BE LESS THAN ANNUAL PAYMENTS. THE INCLUSION OF THE PROPERTY TAX FACTOR MAY REDUCE ANTICIPATED INCOME TO A POINT FAR BELOW ANTICIPATED EXPENDITURES FOR THAT PARCEL.

THE LAND CONSOLIDATION BILL ADDRESSES THESE PROBLEMS IN VERY STRAIGHT-FORWARD TERMS.

THE BILL BEGINS BY STATING THAT ITS PROVISIONS ARE AMENDMENTS TO THE ACT WHICH RESTORED THE LANDS NOT PURCHASED BY NON-INDIAN SETTLERS TO THE TRIBE AND RESERVATION. ACT OF AUGUST 10, 1939, 53 STAT. 1351, 25 USC §463 E, F AND G.

THIS ACT IS COINED, IN PART, IN TERMS OF LAND CONSOLIDATION. HOWEVER, IT SIMPLY AUTHORIZED THE SECRETARY, UNDER SUCH RULES AND REGULATIONS AS HE MIGHT PRESCRIBE, TO ACQUIRE LANDS WITHIN THE RESERVATION. THE ACT FURTHER AUTHORIZED HIM TO TAKE TITLE TO SUCH LANDS IN TRUST AND TO UTILIZE SUCH FUNDS AS WERE

APPROPRIATED PURSUANT TO 25 USC §465.

THIS ACT DID NOT PROVIDE THE PROCEDURAL FORMAT IN WHICH EXCHANGES, SALES AND PURCHASES COULD TAKE PLACE AND IMPORTANTLY, DID NOT AUTHORIZE THE TAKING OF TITLE IN TRUST WHERE PROPERTY HAD BEEN MORTGAGED. FURTHER, INsofar AS I AM AWARE, NO RULES OR REGULATIONS WERE EVER DEVELOPED AND NO FUNDS WERE APPROPRIATED. THE ACT OF 1939 FALLS FAR SHORT OF OUR NEEDS IN TERMS OF LAND CONSOLIDATION TODAY.

SECTION 2 OF THE BILL STATES THAT FOR THE PURPOSES OF EFFECTING LAND CONSOLIDATIONS OF LAND ON THE RESERVATION INTO TRIBAL AND INDIVIDUAL OWNERSHIP; ATTAINING AND PRESERVING AN ECONOMIC LAND BASE; ALLEVIATING INDIAN HEIRSHIP PROBLEMS AND ASSISTING IN THE ACQUISITION, DISPOSITION AND OTHER USE OF TRIBAL LANDS, THE SECRETARY IS AUTHORIZED, UNDER SUCH REGULATIONS AS HE MAY DEVELOP, TO TAKE THE FOLLOWING ACTIONS:

- A. ACQUIRE FOR THE TRIBE OR INDIVIDUAL MEMBERS, LANDS, ^{why} INTERESTS IN LANDS, IMPROVEMENTS, WATER RIGHTS OR SURFACE RIGHTS TO LANDS WITHIN, ADJACENT TO OR IN CLOSE PROXIMITY TO THE RESERVATION BOUNDARIES THROUGH PURCHASE, EXCHANGE OR RELINQUISHMENT. ANY PROPERTIES ACQUIRED FOR INDIVIDUALS MUST BE WITHIN THE RESERVATION BOUNDARIES.
- B. SELL OR APPROVE SALES OF TRUST LANDS, INTERESTS THEREIN OR IMPROVEMENTS THEREON.
- C. EXCHANGE TRIBAL LANDS, INTERESTS OR IMPROVEMENTS

FOR LIKE ITEMS PROVIDED THAT THE EXCHANGES ARE FOR EQUAL VALUE OR ARE EQUALIZED BY MONEY.

- D. ACCEPT TITLE TO ANY LANDS OR INTERESTS IN LAND IN TRUST FOR THE TRIBE.

SECTION 3 PROVIDES THAT LANDS OR INTERESTS IN LANDS ACQUIRED UNDER THIS ACT SHALL BE TAKEN IN TRUST AND SHALL HAVE THE SAME STATUS AS OTHER TRUST LANDS ON THE RESERVATION. HOWEVER, LANDS ACQUIRED BEYOND THE RESERVATION SHALL BE SUBJECT TO NONE OF THE TRUST PROTECTIONS.

SECTION 4 AUTHORIZES THE USE OF ANY FUNDS AVAILABLE OR THAT MAY HEREAFTER BE APPROPRIATED FOR THE PURPOSE OF THIS ACT.

SECTION 5 PROVIDES THE SAFEGUARD OF ALLOWING ACTION UNDER THIS BILL ONLY WHEN REQUESTED BY THE BOARD OF TRUSTEES AND WHEN CONSISTENT WITH A LAND CONSOLIDATION AND DEVELOPMENT PLAN APPROVED BY THE SECRETARY. PLANNING IN REGARD TO LAND PURCHASES AND CONSOLIDATION HAS BEEN A LONG TERM MATTER FOR US. AT THE PRESENT TIME WE HAVE PLANS APPROVED THAT WERE DEVELOPED BY THE FARM COMMITTEE FOR FARM LANDS AND THE FOREST/RANGE COMMITTEE FOR GRAZING AND TIMBERED LANDS. WE WOULD EXPECT THAT OUR OVERALL ECONOMIC DEVELOPMENT PLAN AND OUR COMPREHENSIVE PLAN MIGHT SERVE AS A GENERAL LAND CONSOLIDATION AND DEVELOPMENT PLAN. IN ADDITION, OUR COMMERCIAL ENTERPRISE IS IN THE PROCESS OF DEVELOPING SUCH A PLAN AS IT SPECIFICALLY RELATES TO OUR COMMERCIAL OPERATIONS.

SECTION 6 PROVIDES ANOTHER SAFEGUARD IN THAT IT PROVIDES THAT MONIES OR CREDITS RECEIVED THROUGH SALES OR EXCHANGES UNDER

THIS BILL CAN ONLY BE USED FOR THE ACQUISITION OF OTHER LANDS OR INTERESTS OR OTHER PURPOSES CONSISTENT WITH THE APPROVED LAND CONSOLIDATION AND DEVELOPMENT PLAN.

A MAJOR PROVISION IS FOUND IN SECTION 7 WHEREIN THE SALE, TO EITHER THE TRIBE OR INDIVIDUAL PURCHASERS, OF LANDS HELD IN MULTIPLE OWNERSHIP IS AUTHORIZED WHEN THE OWNERS OF A MAJORITY OF TRUST INTERESTS IN SUCH A PARCEL AUTHORIZE THE SALE IN WRITING. THIS PROVISION WILL BE A MAJOR STEP TOWARD REMEDYING THE COMPLEX FRACTIONALIZED OWNERSHIP OF LANDS WITHIN THE RESERVATION.

SECTION 8 AUTHORIZES THE USE OF A MORTGAGE OR DEED OF TRUST AS SECURITY WHEN PURCHASING LAND AND THE TAKING OF TITLE IN TRUST IN THAT SITUATION. THE SECTION ALSO DEFINES HOW FORECLOSURES WILL PROCEED AND THE ROLE OF THE UNITED STATES IN SUCH PROCEEDINGS. THIS ONE STEP WILL OPEN A BASIC DOOR AND MAKE AVAILABLE TO THE TRIBE THE MOST COMMONLY USED SECURITY DEVICE IN LAND PURCHASES THAT HAS NEVER HERETOFORE BEEN AVAILABLE TO US.

THIS BILL, IN SHORT, FILLS THOSE PRECISE NEEDS THAT WE HAVE IDENTIFIED OVER YEARS OF MANAGING LANDS WITHIN OUR RESERVATION.

THE PROBLEMS ENCOUNTERED HAVE MADE THAT MANAGEMENT VERY FRUSTRATING. THE PASSAGE OF THIS BILL WOULD PROVIDE US WITH AN OPERATING BASIS AND MECHANISM THAT WOULD ALLOW US TO DEVELOP AN ECONOMICALLY AND ADMINISTRATIVELY SOUND LAND BASE.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, THAT CONCLUDES MY PREPARED STATEMENT. WE WOULD BE HAPPY TO ANSWER ANY QUESTIONS THAT YOU MIGHT HAVE FOR US.

PRE-1969 OREGON INTESTATE SUCCESSION LAWS

THE STATE LAWS OF OREGON REGARDING INTESTATE SUCCESSION DEVELOPED IN THE FOLLOWING MANNER.

STATE STATUTES WERE CONTAINED IN A SET OF BOOKS CALLED "OREGON COMPILED LAWS ANNOTATED" (OCLA) PRIOR TO THE ADVENT OF THE PRESENT "OREGON REVISED STATUTES" (ORS).

IN THE OCLA, TITLE 16 DEALT WITH DESCENT AND DISTRIBUTION. SECTION 16-101 PROVIDED FOR THE INTESTATE SUCCESSION OF PROPERTY TO THE DECEDENT'S LINEAL DESCENDENTS, IF NONE THEN TO THE SPOUSE, IF NONE THEN TO FATHER AND MOTHER, IF NONE THEN TO BROTHERS AND SISTERS AND THEN ISSUE AND IF NONE OF THESE SURVIVED THE DECEDENT, THEN TO THE NEXT OF KIN.

IN ADDITION, THE COMMON LAW ESTATES OF DOWER AND CURTSEY WERE PROVIDED FOR IN TITLE 17 OF THE OCLA. SECTION 17-101 PROVIDED FOR THE WIDOWS DOWER WHICH WAS ONE-HALF INTEREST IN THE DECEDENT'S ESTATE FOR HER LIFE. SIMILARLY, THE WIDOWER'S CURTSEY WAS PROVIDED FOR IN SECTION 17-401 WHICH ENTITLED HIM TO ONE-HALF INTEREST IN HIS WIFE'S ESTATE FOR HIS LIFE TIME.

AS CAN BE SEEN, THE COMBINATION OF THE INTESTATE SUCCESSION LAWS AND THE CURTSEY AND DOWER ESTATES DESCRIBED ABOVE ARE QUITE SIMILAR TO THE CONTENTS OF THE UMATILLA INHERITANCE BILL.

WHEN THE LAWS WERE RECODIFIED AND THE ORS WAS ESTABLISHED, THESE LAWS WENT INTO THE ORS AS WRITTEN, THE ONLY CHANGE BEING A DIFFERENT SET OF BOOKS WITH A DIFFERENT NUMBERING SYSTEM. CHAPTER 591 OF THE 1969 SESSION LAWS EFFECTED A MAJOR REVISION